



## HEALTH CARE FINANCING ADMINISTRATION

Department of Health and Human Services

Region VIII  
1600 Broadway, Suite 700  
Denver CO 80202-4967

November 3, 2000

[Name]

[Tribe]

[Address]

[City, State Zip]

Dear [Tribal Leader]:

The Health Care Financing Administration (HCFA) which administers the Medicare program and jointly administers, with the States, Medicaid and the State Children's Health Insurance Programs, continues its efforts to establish a meaningful process of consultation with the Federally recognized Tribes. A number of issues have been raised to us in recent consultation meetings and through other communication paths. This is one of a series of letters to Tribal Leaders. This letter addresses the status of our efforts on:

- Cost-sharing imposed on American Indians and Alaska Natives (AI/AN),
- Outstationing eligibility workers on or near Tribal lands, and
- Cross-State Medicaid issues.

### **Cost Sharing**

Tribes have asked that their members who are entitled to Medicare, Medicaid or the State Children's Health Insurance Program be exempt from cost-sharing. Each program has different laws governing it.

Current law governing entitlement to Medicare benefits requires cost-sharing for all beneficiaries regardless of age or entitlement status. With respect to Medicaid, States may impose cost-sharing on Medicaid adults over the age of 18; however, States cannot impose cost-sharing on children entitled to Medicaid. There are certain other exclusions from cost-sharing including for pregnant women, institutionalized individuals and some services. In addition, HCFA will no longer approve section 1115 demonstration projects that impose cost-sharing on AI/AN children and is working with States with already approved demonstration projects to achieve compliance with this policy.

As for SCHIP, States are permitted to impose cost sharing on most children; however, HCFA, in accordance with section 2101(b)(3)(D) of the Social Security Act which requires that States ensure the provision of child health assistance to AI/AN children, issued guidance on October 6, 1999 and a proposed regulation on November 8, 1999 stating that the imposition of cost sharing on AI/AN children is in violation of section 2102(b)(3)(D). Most States with separate SCHIP programs are now in compliance with

this policy and we are working with the few remaining States to bring them into compliance.

Legislation would be required to further extend waivers of cost sharing under the Medicare, Medicaid, and SCHIP programs.

### **Outstationing Eligibility Workers**

Tribes have reminded HCFA and we are increasingly aware that many more AI/AN people appear to meet eligibility requirements for Medicare, Medicaid and SCHIP than are enrolled. Many issues may have an impact on enrollment including the remote location of many Tribal lands, transportation difficulties, language barriers and cultural differences.

HCFA will continue to work with States, IHS, and Tribes to find effective ways to station eligibility workers in locations accessible to AI/AN people. We will also continue our work with the Health Resources and Services Administration to develop and advertise effective, innovative programs to address enrollment barriers to Medicaid and SCHIP. HCFA welcomes ideas and proposals from Tribes to reach out to AI/AN families.

For Medicare, HCFA has entered into an agreement with the Social Security Administration and the Indian Health Service to develop a broad-based education and outreach program on Medicare and Social Security benefits for Indian elders. This effort will build upon a model developed by the National Indian Council on Aging which focuses on community-based, culturally appropriate communication and assistance to elders.

### **Cross-State Medicaid Services**

Tribes, the Indian Health Service (IHS) and the Bureau of Indian Affairs (BIA) operate some facilities on Tribal lands that serve beneficiaries in multiple States. Tribes and IHS have reported difficulties in obtaining reimbursement from some State Medicaid programs for covered services. This has been particularly problematic for mental health and substance abuse services to AI/AN people.

Current policy requires States to provide Medicaid coverage to its residents who are absent from the State. Likewise, States must have in place, procedures to facilitate the furnishing of care to persons who are present in the State, but eligible for Medicaid under another State's plan. States may also enter into interstate agreements to facilitate the provision of necessary services; this is common between and among bordering States. In addition, when two or more States cannot resolve which State is the State of residency, the State where the individual is physically located is deemed to be the State of residency for Medicaid payment purposes.

In summary, we believe there is current policies that address the majority of cross-state Medicaid payment issues. We will provide guidance to the states to alert them to the flexibilities they have under those current policies. We will also review the issue of

cross-state border payments to determine if there are situations that are not covered by our policies and consider what remedies might be available. In addition, the HCFA Regional Offices will provide technical assistance to any Tribe encountering problems with cross-state Medicaid issues. Tribes should contact the Native American Contact in the appropriate Regional Office to seek assistance.

A copy of this letter has been sent to each State Medicaid Director and to the IHS Area Directors. Any questions or issues regarding the material in this letter may be referred to your Regional Office. The Native American Contact for the Denver Region is Jim Lyon, who can be contacted at 303-844-7114.

A handwritten signature in black ink, appearing to read 'Alex Trujillo', with a stylized, cursive script.

Alex Trujillo  
Regional Administrator  
Denver Region VIII